

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



**SCOTT
WEBB**

A R C H I T E C T

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Extension of BZA-2015-15
Variance to Minimum Lot Width
Demolition of Existing Lodging house
& Construction of a 2-Family Dwelling
115 Bishop Street

March 17, 2017

Board Members,

Please accept this letter as a formal petition for an extension of the lot width variance granted for the demolition of existing Lodging house and the reconstruction of a 2-Family Dwelling at 115 Bishop Street.

As you know, the construction season and the university calendar go hand in hand, and when a job cannot be completed in time for the rental season, it gets postponed to the next one. Such is the case here, where once BZA approval was granted; time had run out for construction.

Therefore, we are asking for an extension of the previously approved variance, allowing construction to begin this summer.

No changes have been considered to the approved plan that would change the variance that was granted, nor has the area in which it is proposed significantly changed.

Thank you for your consideration of this application. If you have any questions or need any additional information, please let me know.

Respectfully,

Scott Webb, Architect

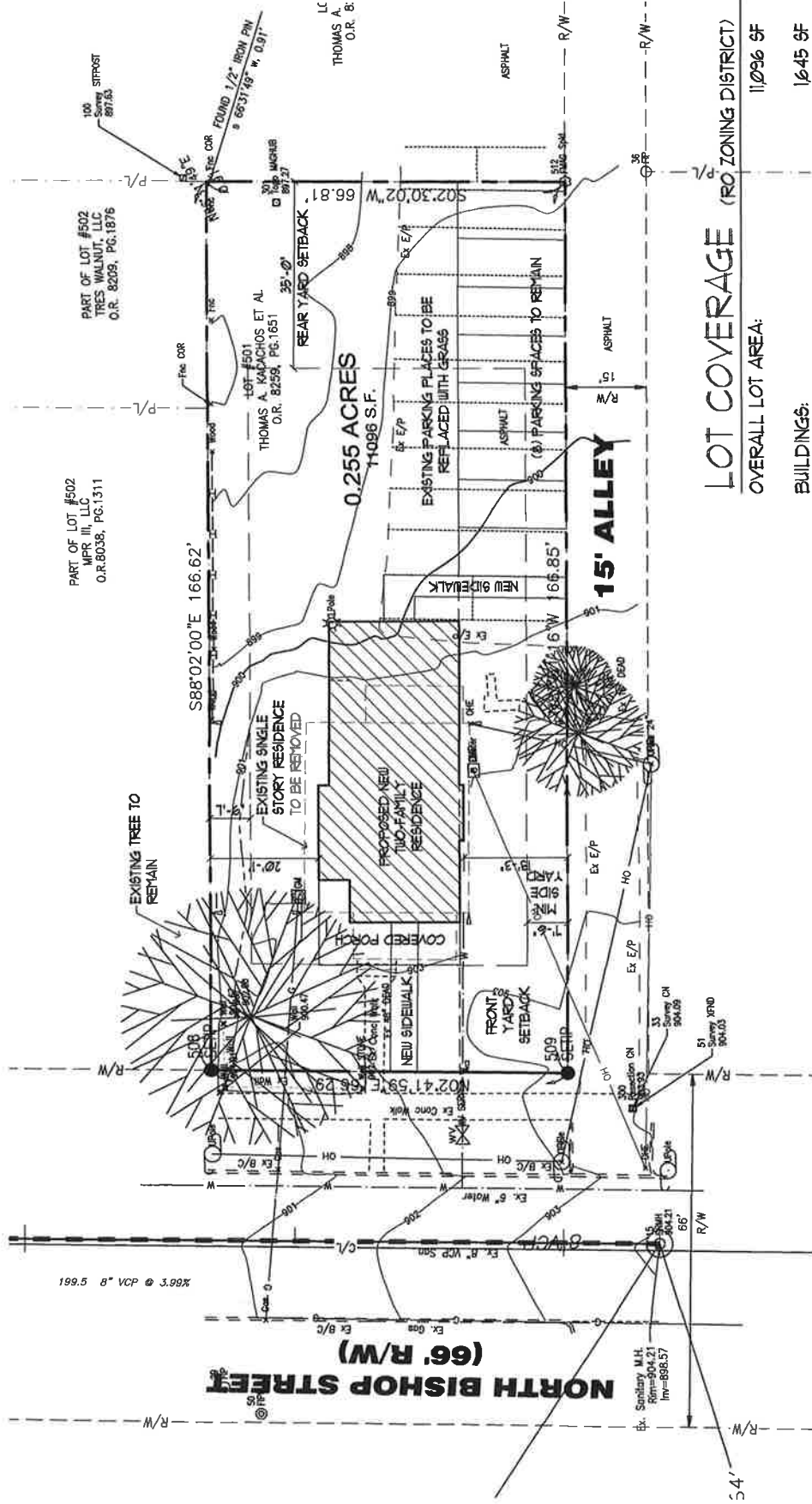


**SCOTT
WEBB**
ARCHITECT
1103 West Walnut Street
Oxford, Ohio 45056
(519) 523-3888
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PROPOSED NEW TWO-RESIDENCE
115 Bishop Street
OXFORD, OHIO 45056

DATE	October 13, 2015
REVISIONS	

A=1



SITE PLAN

TOPOGRAPHIC SURVEY 115 NORTH BISHOP STREET LOT #501
CONGRESS LANDS WEST OF THE MIAMI RIVER
CITY OF OXFORD BUTLER COUNTY, OHIO
DAVID DOUGLAS SMITH, P.S.
910 MARZETH DRIVE OFFICE (615) 525-8964
OXFORD, OHIO 45056 E-MAIL: DDS@11111111.COM

1" = 20'-0"

LOT COVERAGE (NO ZONING DISTRICT)

OVERALL LOT AREA:	11,096 SF
BUILDINGS:	1,645 SF
DRIVEWAY PARKING (OFF ALLEY):	1,442 SF
SIDEWALKS:	302 SF
TOTAL:	3,389 SF
ACTUAL FRONT YARD:	140 SF / 1328 SF = 10.5%
ALLOW. FRONT YARD:	RO = 25%
ACTUAL ENCLOSED BUILDING:	1,645 SF / 11,096 SF = 14.8%
ALLOW. ENCLOSED BUILDING:	RO = 25%
ACTUAL LOT COVERAGE:	3,389 SF / 11,096 SF = 30.5%
ALLOW. LOT COVERAGE (ALLEY ACCESS):	R2MS = 40%



November 24, 2015

Mr. Scott Webb
103 W. Walnut Street
Oxford, OH 45056

Re: BZA-2015-15
115 Bishop Street – Variance to Section 1143.05(c)(1)(B) minimum lot width

Dear Mr. Webb:

The Oxford Board of Zoning Appeals met on November 18, 2015 and voted 5-0-0 to approve your variance request.

If you have any questions or need additional information regarding this action, please contact the Community Development Department at 524-5204.

Sincerely,

Lynn Taylor
Administrative Assistant
Community Development Department

cc: Case File

City of Oxford
Community Development Department
STAFF REPORT

Board of Zoning Appeals

Case # BZA-2017-05

Date – April 19, 2017

APPLICATION

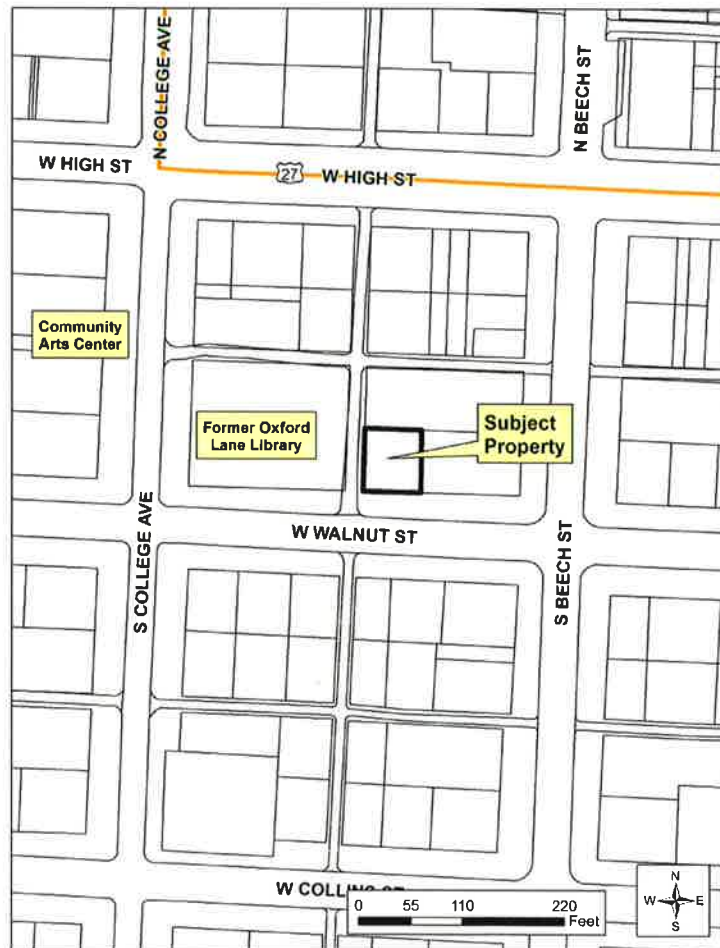
Applicant:	Scott Webb
Location:	114 West Walnut St
Owner:	Clawson and Clawson Rentals LLC
Action Request:	Variance to Section 1141.03(b), principal entrance location
Current Use:	Two Family Residential
Zoning:	UP (Uptown)
Surrounding Land Uses:	Single Family, Institutional, Professional Office

DESCRIPTION

Architect Scott Webb, is requesting a variance from the principal entrance requirement on behalf of the property owner. The property location is 114 West Walnut Street which currently has a two-story residential building on the lot. A building permit for a new four story building on the site was submitted to the City on February 9, 2017.

BACKGROUND

Oxford Zoning Code Section 1141.03(b) requires that *“Every building.....shall be located on a lot of record, and shall have its principal entrance upon a street bordering such lot. For the purpose of this provision an alley is not considered as a street.”* The building is a four-story building with ground floor commercial tenant space comprising the entire front façade. The entrance to the upper level apartments is from the alley which is not permitted by Oxford Zoning Code. While this section of the Zoning Code has been challenging for designers and the City of Oxford, this request is not for an appeal of code interpretation.



This is a request for variance; therefore the applicant discussion regarding code interpretation or definitions is not applicable to the decision and would be better handled through an Appeal of Administrator Decision request to BZA.

COMMENT FORMS

Notification was mailed to property owners within 200 feet and a sign was placed on the property. No public comments have been received as of this writing.

AGENCY REVIEW

The variance request has been reviewed by City departments.

Fire	Returned without comments
Police	Returned without comments
Engineering	Returned without comments
Economic Development	Returned without comments

BZA SITE HISTORY

There are no documented records of prior BZA cases for the subject property.

ANALYSIS

The burden of proof is upon the Applicant to present reliable and substantial evidence that supports the request for variance(s) (Section 1139.02(c)(1)). Further, the BZA must find that practical difficulties exist that would render strict application of the Code unreasonable (Section 1139.02(c)(2)). In determining whether such difficulties exist which are sufficient to warrant a variance, the Board shall use the attached eight decision criteria (A-H) in its deliberation. See the enclosed letter addressing the review criteria from Mr. Webb. The staff's review of the criteria is included below.

There is an existing two-family dwelling on the property that has existed as an actively permitted rental for many years. Therefore regarding criterion A, it is staff's determination that the property could **yield a reasonable return without the variance**.

Regarding criterion B, Staff believes that the variance **is not substantial** due to the lack of comments from other city departments.

Regarding criterion C, whether or not the **essential character of the neighborhood** would be negatively altered by the granting of the variance: The Oxford Historic and Architectural Preservation Commission (HAPC) approved the exterior building design on December 7, 2017. The HAPC is appointed by the City Council and is the most responsible party to determine appropriate building character, as it pertains to the adjacent area as well as the entire Uptown Historic District. Below is an excerpted applicable stated purpose of the HAPC from Oxford Code Section 1331.01(a)4(B):

"....Affording the widest possible scope of continuing vitality through private renewal and architectural creativity, within appropriate controls and standards. It is intended to foster a climate in which Oxford's historic areas may continue to exist as living, changing commercial and residential areas, not static museums."

And C: "Encouraging development of vacant and incompatibly developed properties in accordance with character of the area"

And D: "Encouraging maximum use by and convenience to pedestrians."

Regarding criterion D, Staff believes that the delivery of governmental services **is not negatively impacted**, with this request as there were no comments from other city departments.

Regarding criterion E, **property owner awareness of zoning restriction**, Staff believes that the owner representative was aware of the zoning restriction.

Regarding criterion F, the **owner's predicament** is stated to be a required reduction in façade width. However, there is no side yard setback requirement preventing increased building width. Therefore this issue **may be obviated other ways** but the only one presented is the one attached as shown in the site plan and currently under review as part of the pending building permit.

Regarding criterion G, Staff believes that the **spirit and intent** of the zoning requirement requiring the principal entrance be upon the street is multiple:

1. Prevent buildings being architecturally sideways on the lot (as-stated by applicant)
2. Ensure public safety access
3. Ensure public service access

Given that the exterior design has been approved and there are no comments from other city departments, substantial justice could be done by granting the variance. One concern of Planning staff is ADA (Americans with Disabilities Act of 1990) pedestrian access from the public sidewalk (rather than the alley). While the plans do meet the Ohio Building Code requiring an ADA dwelling unit, it is not clear on the site plan if the grade change from the public sidewalk to the proposed residential entrance also meets ADA.

Regarding criterion H, **other factors** stated by the applicant:

1. Other variance cases: Section 1139.02(c)(2) states that: *"....the determination of practical difficulties shall be made without regard to the existence of variances and nonconformities on other land, sites or structures not presently under consideration."*
2. Other projects not requiring variances: There are a wide variety of hundreds of projects approved for building permits without variances. The number or particular situation may be important if this request was for disagreement on code interpretation. However it is a variance request not an appeal. There have been at least 10 principal entrance variance cases since the 1980s, although as stated above, this determination on the case at hand is to be made **without regard** for other cases.
3. HAPC Approval: Addressed in essential character decision standard

Regarding criterion H, **other factor** by staff:

The subject code restriction has been recently discussed by staff and the Planning Commission for potential review and possible zoning code text amendment. However at this time, no amendment has been recommended to City Council, therefore, the provision of the current Oxford Planning and Zoning Code remains.

RECOMMENDATION

If the BZA determines that difficulties exist which are sufficient to warrant the variance, the staff recommends that the BZA cite any new or different specific evidence not yet identified and approve the variance request. At the time of this report, **staff believes there is substantial evidence that supports the variance request**. If the BZA does approve the variance it can attach any appropriate conditions necessary, such as but not limited to a condition that ADA access from the public sidewalk to the proposed residential entrance be shown on the site plan and approved by staff prior to issuance of building permit.



SUBMITTED BY: _____

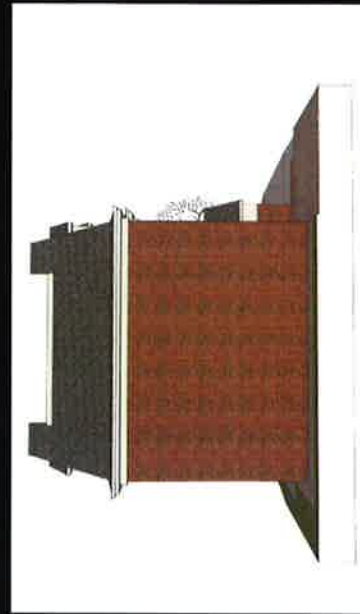
Sam Perry, AICP
Planner, Community Development Department

DATE: April 12, 2017

Proposed New Building



Windows and Brick Veneer are provided on all side of the building



City of Oxford
Inter-Office Review Transmittal Sheet



Date: 3/23/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

**BZA-2017-05, 114 W. Walnut Street, variance to Section 1141.03(b) principle entrance upon a street,
Scott Webb, Applicant, Agent**

 X Review Revisions Other

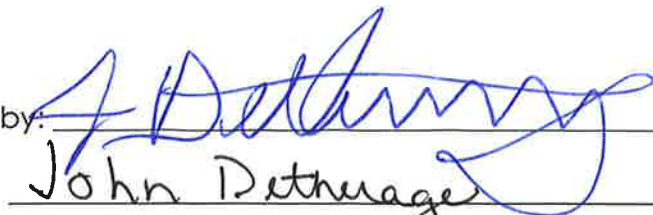
Comments or status update requested by: Lynn Taylor

Please return no later than: 4/7/2017 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by:



John Dethuager
PRINT NAME

Date: 3-29-17

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

BZA-2017-05, 114 W. Walnut Street, variance to Section 1141.03(b) principle entrance upon a street,
Scott Webb, Applicant, Agent

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/7/2017 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 3-27-17

VICTOR POPESCU
PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

**BZA-2017-05, 114 W. Walnut Street, variance to Section 1141.03(b) principle entrance upon a street,
Scott Webb, Applicant, Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/7/2017 Note: If no comments are received, we will assume the project meets your department's standards.

.....

Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 3/27/17

John A. Jones

PRINT NAME

City of Oxford
Inter-Office Review Transmittal Sheet

Date: 3/23/2017

To: Fire Department Engineering Division Police Department Economic Development

From: Community Development

Drawings are being submitted to you for the following:

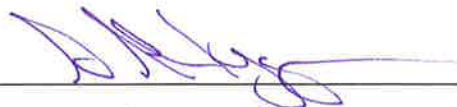
**BZA-2017-05, 114 W. Walnut Street, variance to Section 1141.03(b) principle entrance upon a street,
Scott Webb, Applicant, Agent**

 X Review Revisions Other

Comments or status update requested by: Lynn Taylor

Please return no later than: 4/7/2017 Note: If no comments are received, we will assume the project meets your department's standards.

.....
Drawings are returned: w/comments without/comments

Drawings reviewed by: 

Date: 3-28-17

G. Alan Kygan
PRINT NAME



BZA-2017-05

Surrounding Property Owners Map

Legend

- Subject Parcel
- 200 Ft. Buffer
- Oxford Corporation Limit
- Parcel
- Vacated Right-of-Way
- Building Footprint
- Paved Roadway



1 inch = 75 feet

Prepared on Monday, April 03, 2017

The City of Oxford does not guarantee the dimensional accuracy of this map. Precise dimensional accuracy should be based upon recorded deeds, plats or a professional survey.



Clawson & Clawson Rentals, LLC
125 West Spring Street
Oxford, Ohio 45056
513-523-7263

LETTER OF AGENCY

March 20, 2017

City of Oxford
101 East High Street
Oxford, OH 45056

To Whom It May Concern:

Please be advised that Scott Webb, Architect has permission to represent our interest with the City of Oxford, Board of Zoning Appeals, and act on our behalf for the regarding the demolition of an existing lodging house and construction of a new Mixed Use building located at 114 West Walnut Street.

Thank you,

Signed: 
James Clawson

Clawson & Clawson Rentals, LLC

3/20/17
Date:



Internal Use Only:

Case No.

BZA-2017-05

Date Filed

3/20/17

Petition for Zoning Variance

Petitioner Information

Attach a Letter of Agency if the Petitioner is not the property owner.

Name *

Scott Webb, Architect

Mailing Address *

103 West Walnut Street

City, State & Zip Code *

Oxford, Ohio 45056

Telephone Number(s) *

(513) 523-3838

Email Address

scott@scottwebbarchitect.com

Owner Information

Name *

Clawson & Clawson Rental LLC

Mailing Address *

125 West Spring Street

City, State & Zip Code *

Oxford, Ohio 45056

Telephone Number(s) *

(513) 524-9500

Email Address

pam@hoteldevelopment.net

Variance and Lot Information

Requested Variance. Indicate the nature of variance and applicable section(s) of the Planning and Zoning Code.

Section 1141.03(b)

Principle Entrance facing a street

Location of Requested Variance *

114 West Walnut Street

Name of Building

New Mixed-Use Building

Legal Description *

Survey provided

Zoning District *

UP

Total Acreage *

.114

Existing Use of Site *

Residential

Proposed Use (if applicable). A description of operations, including type of goods sold, services performed, and expected number of customers, clientele, delivery, and service vehicles, and the hours of operation.

New Mixed-Use building as approved by HAPC including ground floor commercial area and upper level apartments.

- D. Whether the variance would adversely affect the delivery of governmental services (i.e. water, sewer, garbage);
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owners' predicament feasibly can be obviated through some method other than a variance;
- G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.
- H. Any other relevant factor.

Fees & Receipt

The variance fee is \$200.00, plus \$100.00 for each additional variance request up to a maximum of \$1,000.00, plus \$10.00 postage charge. **Fees may increase if staff determines that you need more variances.**

Sign and Date

Petitioner Signature *

Date *



Submit Application, Plans and Documentation, and Fees

We will not accept incomplete applications and/or plans and documentation.

Send or drop off this application with required plans and documentation as attachments and a check for fees and postage charge, made payable to **City of Oxford**, to Community Development Director, 101 East High Street, Oxford, OH 45056.

Direct questions to the Community Development Department at (513) 524-5204. The application will be placed on the next possible agenda.

Note: You must adhere to notification and publication requirements. Submit materials 30 days prior to the Board of Zoning Appeals meeting at which the action is requested. City Staff will place a public hearing sign on the subject property. **The Petitioner is responsible for removing the signage at the completion of the hearing(s).**

¹ Butler County Auditor Real Estate Search: <http://www.butlercountyauditor.org/>

² City of Oxford Codified Ordinances: <http://www.cityofoxford.org/fees-ordinances-and-charter>

Board of Zoning Appeals
City of Oxford
101 East High Street
Oxford, Ohio 45056



SCOTT
WEBB

ARCHITECT

103 West Walnut Street
Oxford, Ohio 45056
(513) 523-3838

www.scottwebbarchitect.com

Re: Variance to Section 1141.03(b)
Location of Residential Entrance
Proposed new Mixed-Use Building
114 West Walnut Street

March 20, 2017

Board Members

Please accept this letter as a formal petition for a Board of Zoning Appeals review hearing for a variance to **Section 1141.03(b)** which states:

Every building hereinafter erected, converted, enlarged, reconstructed or structurally altered shall be located on a lot of record, and shall have its principle entrance upon a street bordering such lot. For the purpose of this provision an alley is not considered as a street.

The proposed new mixed use building provides (2) principle entrances facing the street to allow for the potential of (2) separate commercial business on the ground floor facing West Walnut Street

Staff has determined that the entrance to the residential portion of the building is an additional principle entrance and that every public entrance must meet this requirement.

The entrance in question is not a principle entrance as defined by the Zoning Code, but is a private entrance for the residents of the building, separate from the public entrances facing West Walnut Street.

Section 1159.17 defines Principle Entrance as The place of ingress and egress used most frequently by the public.

This clearly says **The** place of ingress and egress and not **every** place used by the public, nor does it address private keyed entrances for the residents.

With the ground floor commercial spaces facing the street (and providing a patio in front) we are meeting the intent of this standard.

Nevertheless, in his Zoning Review letter of March 6, 2017, Sam Perry is requiring a variance to this section or that the building be redesigned to relocate the entrance to the residential apartments.

In response to the decision standards outlined in the application, we offer the following:

- a) *Whether the property in question will yield reasonable return or whether there can be any beneficial use of the property without the variance;*

To require that a portion of the front faced be dedicated to a residential entrance reduces the potential for a reasonable return on the commercial component of the project by reducing the frontage and square footage of the commercial space.

One of the over-arching goals of the changes to the Uptown Zoning District was to encourage better ground floor commercial businesses.

- b) *Whether the variance is substantial;*

The Variance is not substantial, given that the proposed building has (2) potential principle entrances facing the street, meeting the intent of the code section.

The intent of this Code section is to prevent buildings from being set "sideways" on a lot. The location of this secondary private entrance is not substantial.

- c) *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance*

The essential character of the neighborhood would not be affected. The building as designed was approved by the HAPC, whose charge is to represent the compatibility with the neighborhood and the Design Guidelines for the Historic District..

- d) *Whether the variance would adversely affect the delivery of governmental services (i.e., water, sewer, garbage);*

The variance for the location of a single entrance has no effect on the delivery of governmental services. Public and service access is provided along West Walnut Street as well as the public alley to the west.

- e) *Whether the property owner purchased the property with knowledge of the zoning restriction;*

It is unclear whether the property was purchased with knowledge of the current Zoning Code. Demolition & reconstruction was not contemplated when the building was purchased.

- f) *Whether the property owners' predicament feasibly can be obviated through some method other than a variance;*

The building design could be changed significantly, reducing the commercial storefront, and usable lease area to provide an interior hall from the front of the building to the rear residential stairs.

- g) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance;*

The intent of this provision of the Zoning Code is to prevent building from being placed "sideways" on a lot, and not addressing the street grid. The design of this building clearly faces the street, presenting its principle façade and entrances to West Walnut Street. Substantial justice would be done by allowing design flexibility, separating the residential & commercial tenants.

This is by definition, is not a public entrance, but rather a private keyed entrance for the residents. This was considered a significant factor in BZA-04-20 for an identical application for 15 South Beech Street. The Board of Zoning Appeals granted the variance stating in the minutes of that the residential entrance is private (not the entrance most used by the public) and that:

The variance request was not substantial; the character of the neighborhood would not be affected; government services would not be adversely affected; the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

h) Any other relevant factor;

This Code requirement has been inconsistently applied.

While 15 South Beech Street was required to request a variance, numerous other buildings simply were not, as shown in the attached review of the issue.

The variance has been granted with a nearly identical proposal less than 1 block away at 15 South Beech Street.

The building has been given a Certificate of Appropriateness from the HAPC, who has the responsibility to review and approve buildings based on their appropriateness in appearance and design.

Thank you for your consideration of this application. If you have any questions or need any additional information, please call.

Respectfully,

A handwritten signature in black ink, appearing to read 'S Webb', with a stylized flourish at the end.

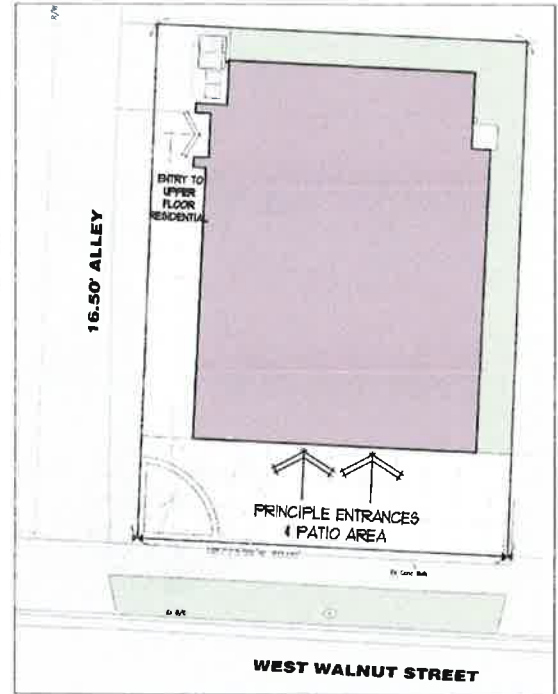
Scott Webb, Architect

Section 1141.03(b)

Every building hereinafter erected, converted, enlarged, reconstructed or structurally altered shall be located on a lot of record, and shall have its principle entrance upon a street bordering such lot. For the purpose of this provision an alley is not considered as a street.

The proposed new mixed use building provides (2) **principle entrances facing the street** to allow for the potential of (2) separate commercial business on the ground floor facing West Walnut Street.

Planning staff is suggesting that the entrance to the residential apartments must also face the street; essentially requiring that every entrance to every portion of the building must meet this code requirement. That is simply not what the code section states.



The purpose of this code section seems clear: we do not want buildings placed “sideways” on a lot.

The building at hand is clearly not set sideways on the lot.

The building was approved by HAPC who has a clear interest in building appropriately addressing the street in the Uptown Historic District and its compatibility with the surrounding neighborhood.



Definition of Principle Entrance

Section 1159.17 defines Principle Entrance as The place of ingress and egress used most frequently by the public. This clearly says **The** place of ingress and egress and not **every** place used by the public.

With the ground floor commercial spaces facing the street (and providing a patio in front) we are meeting this standard.

Further, the residential entrance is private, thereby not the one “most used by the public”.

This interpretation has not been consistently enforced.

Over half of the buildings in Phase 1 of Campus Commons have **No Principle Entrance facing the street**. The garage doors face the street but the actual entry doors are perpendicular to the street.

No Variance was required.



The building at 22 East Walnut Street has an entrance to one apartment (through a deck) facing the street with the main entrance facing the parking lot on the side.

Approved without requiring a variance.



Bella Place faces two public streets, yet has none of the residential entrances facing either.

No variance was required even though all of the residential entrances face either the parking lot or the alley to the east as shown



15 South Beech Street however was required request a variance from this code section.

The Board of Zoning Appeals granted the variance stating in the minutes of BZA-04-20 that the residential entrance is private (not the entrance most used by the public) and that:

The variance request was not substantial; the character of the neighborhood would not be affected; government services would not be adversely affected; the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance



